

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Thursday, January 6, 2022**

**Hearing Room 5A**

9:30 AM

**8:00-00000**

**Chapter**

**#0.00 All hearings on this calendar will be conducted remotely, using ZoomGov video and audio.**

Parties in interest and members of the public may connect to the video and audio feeds, free of charge, using the connection information provided below.

Individuals may participate by ZoomGov video and audio using a personal computer (equipped with camera, microphone and speaker), or a handheld mobile device (such as an iPhone or Android phone). Individuals may opt to participate by audio only using a telephone (standard telephone charges may apply).

Neither a Zoom nor a ZoomGov account is necessary to participate and no pre-registration is required. The audio portion of each hearing will be recorded electronically by the Court and constitutes its official record.

**Meeting URL: <https://cacb.zoomgov.com/j/1601033182>**

**Meeting ID: 160 103 3182**

**Password: 967464**

**Telephone conference lines: 1 (669) 254 5252 or 1 (646) 828 7666**

For more information on appearing before Judge Smith by ZoomGov, please see the "Notice of Video and Telephonic Appearance Procedures for Judge Erithe A. Smith's Cases" on the Court's website at:

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Thursday, January 6, 2022**

**Hearing Room**

**5A**

9:30 AM

**CONT...**

**Chapter**

<https://www.cacb.uscourts.gov/judges/honorable-erithe-smith> under the "Telephonic Instructions" section.

To assist in creating a proper record and for the efficiency of these proceedings, please:

- Connect 10 minutes before your hearing time so that you have time to check in.
- Change your Zoom name to include your calendar number, first initial and last name, and client name (*ex. 5, R. Smith, ABC Corp.*) if appearing by video. This can be done by clicking on "More" and "Rename" from the Participants list or by clicking on the three dots on your video tile.
- Mute your audio to minimize background noise unless and until it is your turn to speak. Consider turning your video off until it is your turn to appear.
- Say your name every time you speak.
- Disconnect from the meeting by clicking "Leave" when you have completed your appearance(s).

Docket      0

**Courtroom Deputy:**

- NONE LISTED -

**Tentative Ruling:**

- NONE LISTED -

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Thursday, January 6, 2022**

**Hearing Room**

**5A**

9:30 AM

**8:21-10423 Russell Benjamin Wallace**

**Chapter 7**

Adv#: 8:21-01098 Marshack v. Wallace

**#1.00 STATUS CONFERENCE RE: Complaint to Determine Dischargeability of Debt  
Under 11 U.S.C. §§523(a)(4) and 523(a)(6)**

Docket 1

**Courtroom Deputy:**

- NONE LISTED -

**Tentative Ruling:**

**January 6, 2022**

Discovery Cut-off Date:

May 16, 2022

Pretrial Conference Date:  
a.m.

July 14, 2022 at 9:30

Deadline to File Joint Pretrial Stipulation:

June 30, 2022

***Note: If all parties agree with the foregoing schedule, appearances at today's hearing are waived and Plaintiff shall serve/lodge a scheduling order consistent with the same.***

<b>Party Information</b>
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**Debtor(s):**

Russell Benjamin Wallace

Pro Se

**Defendant(s):**

Russell Benjamin Wallace

Pro Se

**Plaintiff(s):**

Richard A. Marshack

Represented By  
Brett Ramsaur

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Thursday, January 6, 2022**

**Hearing Room**

**5A**

9:30 AM

**CONT... Russell Benjamin Wallace**

**Chapter 7**

**Trustee(s):**

Jeffrey I Golden (TR)

Represented By  
Jeffrey S Shinbrot

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Thursday, January 6, 2022**

**Hearing Room**

**5A**

9:30 AM

**8:21-10635 Alicia Marie Richards**

**Chapter 7**

Adv#: 8:21-01094 Marshack v. Remsen et al

**#2.00** STATUS CONFERENCE RE: Complaint for: Avoidance, Recovery, and Preservation of: (1) Unperfected Lien on Real Property [11 U.S.C. §§544, 550, 551]; (2) Intentional Fraudulent Transfer [11 U.S.C. §§548, 550 and 551]; (3) Constructive Fraudulent Transfer [11 U.S.C. §§548 550 and 551]; (4) Intentional Fraudulent Transfer [11 U.S.C. §§544, 550 and 551; Cal. Civ. Code §§3439.04, 3439.07]; and (5) Constructive Fraudulent Transfer [11 U.S.C. §§544, 550 and 551] Cal. Civ. Code §§3439.04, 3439.05, 3439.07]; (6) Disallowance of Claim [11 U.S.C. §502]

Docket 1

**\*\*\* VACATED \*\*\* REASON: OFF CALENDAR: Another Summons  
Issued on Amended Complaint on 12/7/2021; New Status Conference Set for  
2/24/2021 at 9:30 a.m. (xx)**

**Courtroom Deputy:**

**OFF CALENDAR: Another Summons Issued on Amended Complaint on  
12/7/2021; New Status Conference Set for 2/24/2021 at 9:30 a.m. (xx) -  
sd/td (12/7/2021)**

**Tentative Ruling:**

- NONE LISTED -

<b>Party Information</b>
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**Debtor(s):**

Alicia Marie Richards	Pro Se
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**Defendant(s):**

Gregory Lawrence Remsen	Pro Se
Jonathan Steven Richards	Pro Se
Kelly Michelle Richards	Pro Se
Alicia Marie Remsen Richards	Pro Se

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Thursday, January 6, 2022**

**Hearing Room**

**5A**

9:30 AM

**CONT... Alicia Marie Richards**

**Chapter 7**

**Plaintiff(s):**

Richard A Marshack

Represented By  
Tinho Mang  
D Edward Hays

**Trustee(s):**

Richard A Marshack (TR)

Represented By  
Richard G Heston  
D Edward Hays  
Tinho Mang

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Thursday, January 6, 2022**

**Hearing Room**

**5A**

9:30 AM

**8:21-11710 Jamie Lynn Gallian**

**Chapter 7**

Adv#: 8:21-01095 The Huntington Beach Gables Homeowners Association v. Gallian et al

**#3.00** STATUS CONFERENCE RE: Complaint of the Huntington Beach Gables Homeowners Association: 1. To Set Aside Voidable Transfer; 2. For Declaratory Relief Establishing Validity of Lien; 3. To Object to Discharge Under 11 U.S.C. § 523(a)(2) (Actual Fraud); and 4. To Object to Discharge Under 11 U.S.C. § 727(a)(5)

Docket 1

**Courtroom Deputy:**

- NONE LISTED -

**Tentative Ruling:**

**January 6, 2022**

Continue the Status Conference to January 20, 2022 at 10:30 a.m., same date/time as hearing on the pending motion re abstention etc.

***Note: Appearances at this hearing are not required.***

<b>Party Information</b>
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**Debtor(s):**

Jamie Lynn Gallian	Pro Se
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**Defendant(s):**

Jamie L Gallian	Pro Se
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Randall L Nickel	Pro Se
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**Plaintiff(s):**

The Huntington Beach Gables	Represented By Michael D Poole
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**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Thursday, January 6, 2022**

**Hearing Room**

**5A**

9:30 AM

**CONT...      Jamie Lynn Gallian**

**Chapter 7**

**Trustee(s):**

Jeffrey I Golden (TR)

Pro Se



**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Thursday, January 6, 2022**

**Hearing Room**

**5A**

9:30 AM

**8:21-11710 Jamie Lynn Gallian**

**Chapter 7**

Adv#: 8:21-01096 Jasso v. Gallian

**#4.00** STATUS CONFERENCE RE: Amended Complaint for Determination of Dischargeability and Objecting to Debtor's Discharge Pursuant to Sections 523 and 727 of the Bankruptcy Code

Docket 6

**\*\*\* VACATED \*\*\* REASON: OFF CALENDAR: Another Summons  
Issued 11/9/2021; New Status Conference Set for 2/10/2022 at 9:30 a.m. (xx)**

**Courtroom Deputy:**

**OFF CALENDAR: Another Summons Issued 11/9/2021; New Status  
Conference Set for 2/10/2022 at 9:30 a.m. (xx) - td (11/19/2021)**

**Tentative Ruling:**

- NONE LISTED -

<b>Party Information</b>
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**Debtor(s):**

Jamie Lynn Gallian	Pro Se
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**Defendant(s):**

Jamie Lynn Gallian	Pro Se
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**Plaintiff(s):**

Janine Jasso	Pro Se
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**Trustee(s):**

Jeffrey I Golden (TR)	Pro Se
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**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Thursday, January 6, 2022**

**Hearing Room**

**5A**

9:30 AM

**8:21-11710 Jamie Lynn Gallian**

**Chapter 7**

Adv#: 8:21-01097 Houser Bros. Co. v. Gallian

**#5.00** STATUS CONFERENCE RE: Complaint to (1) Determine Dischargeability of Debt Pursuant to 11 U.S.C. §§523(a)(2)(A) and (a)(6); (2) Deny Discharge Pursuant to 11 U.S.C. §§727(a)(2)(A),(a)(4) and (a)(5)

Docket 1

**Courtroom Deputy:**

- NONE LISTED -

**Tentative Ruling:**

**January 6, 2022**

Deadline to complete discovery: March 31, 2022

Deadline to attend mandatory mediation as to the 523(a) claims only\*: April 29, 2022

Deadline to file Joint Pretrial Stipulation: June 2, 2022

Pretrial Conference: June 16, 2022 at 9:30 a.m.

\*See the court's website at [www.cacb.uscourts.gov](http://www.cacb.uscourts.gov) for details and forms regarding the court's mediation program (the first day is free of charge).  
Special note: the 727 claims for relief cannot be settled in favor of Plaintiff only. If the 523(a) claims are settled, notice must be given to all creditors regarding any intent to thereafter dismiss the 727 claims (because all creditors are affected by such dismissal).

***Note: If both parties agree to the tentative ruling, appearances are not required and Plaintiff shall lodge a scheduling order consistent with the same. If both parties do not accept the tentative ruling, the status conference will proceed as scheduled.***

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Thursday, January 6, 2022**

**Hearing Room**

**5A**

9:30 AM

**CONT...      Jamie Lynn Gallian**

**Chapter 7**

<b>Party Information</b>
--------------------------

**Debtor(s):**

Jamie Lynn Gallian

Pro Se

**Defendant(s):**

Jamie Lynn Gallian

Pro Se

**Plaintiff(s):**

Houser Bros. Co.

Represented By  
D Edward Hays  
Laila Masud

**Trustee(s):**

Jeffrey I Golden (TR)

Pro Se

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Thursday, January 6, 2022**

**Hearing Room**

**5A**

9:30 AM

**8:21-11648 Joyful Care Caregiving Services, Inc.**

**Chapter 11**

Adv#: 8:21-01061 Estes v. Degamo et al

**#5.10** CONT'D STATUS CONFERENCE Hearing RE: Notice of Removal (RE: Complaint for: 1) Breach of Contract; 2) Promissory Fraud; 3) Breach of Covenant of Good Faith and Fair Dealings; 4) Extortion; 5) Common Counts and Unjust Enrichment; and 6) Punitive Damages, [Los Angeles Superior Court Case No. 21NWCV00190])

FR: 9-9-21; 12-16-21

Docket 3

**Courtroom Deputy:**

**THIS MATTER WILL BE HEARD ON TODAY'S CALENDAR AT 10:30 A.M.  
FOLLOWING CALENDAR MATTER #17**

**Tentative Ruling:**

**September 9, 2021**

At the request of the parties in the Joint Status Report, continue the Status Conference to November 10, 2021 at 9:30 a.m.; an updated Joint Status Report must be filed no later than October 27, 2021.

***Note: If all parties accept the tentative ruling, appearances at today's hearing are not required. Plaintiff to serve notice of the continued hearing date/time.***

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**December 16, 2021**

Continue Status Conference to January 6, 2022 at 9:30 a.m., same date/time as hearing on Defendant's Motion to Strike 523(a) claims. Updated Status Report not required. (XX)

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Thursday, January 6, 2022**

**Hearing Room**

**5A**

9:30 AM

CONT... Joyful Care Caregiving Services, Inc.

**Chapter 11**

***Note: If all parties accept the tentative ruling, appearances at this hearing are not required.***  
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**January 6, 2022 [Will be heard with #17 on 10:30 am calendar]**

Deadline for Defendant to file Answer to Amended Complaint*:	February 7, 2022
Deadline to Attend Mandatory Mediation**:	April 15, 2022
Discovery Cut-off Date:	June 17, 2022
Deadline to file Joint Pretrial Stipulation:	August 4, 2022
Pretrial Conference:	August 18, 2022 at 9:30 a.m.

\* If Counts One and Four are dismissed, Defendant need only answer Counts Two and Three.

\*\* See the court's website at [www.cacb.uscourts.gov](http://www.cacb.uscourts.gov) for details and forms regarding the court's mediation program (the first day is free of charge).

***Note: If both parties agree to the tentative ruling, appearances are not required for the Status Conference and Plaintiff shall lodge a scheduling order consistent with the same. If both parties do not accept the tentative ruling, the status conference will proceed as scheduled.***

<b>Party Information</b>
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**Debtor(s):**

Joyful Care Caregiving Services,

Represented By  
Joon M Khang

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Thursday, January 6, 2022**

**Hearing Room**

**5A**

9:30 AM

**CONT... Joyful Care Caregiving Services, Inc.**

**Chapter 11**

**Defendant(s):**

Roderick Degamo	Pro Se
Jocelyn Degamo	Pro Se
Joyful Care Caregiving Services,	Represented By
	Joon M Khang
A Joyful Home Care, Inc	Pro Se
All Care Partners, Inc	Pro Se

**Plaintiff(s):**

Hermina Estes	Pro Se
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**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Thursday, January 6, 2022**

**Hearing Room**

**5A**

10:00 AM

**8:21-10423 Russell Benjamin Wallace**

**Chapter 7**

**#6.00** Hearing RE: Motion for relief from the automatic stay [REAL PROPERTY]

WILMINGTON SAVINGS FUNDS SOCIETY, FSB

VS.

DEBTOR

Docket 46

**Courtroom Deputy:**

- NONE LISTED -

**Tentative Ruling:**

**January 6, 2022**

Deny the Motion due to insufficient evidence that Movant's interest is not adequately protected.

Basis for Tentative Ruling:

Movant has provided no evidence to support the property's value in the amount of \$3.1M other than the Debtor's schedules and has presented no evidence that the value of the property has decreased since the filing of the bankruptcy. Further, the chapter 7 trustee has indicated his intent to market the property for sale with a list price of \$4.9M. In fact, this court's order approving the employment of Trustee's broker to market the property was entered on Dec. 30, 2021 [docket #60]. Under these circumstances, Movant has not met its burden of proof establishing grounds for relief from the automatic stay.

EVIDENTIARY OBJECTION: The trustee's evidentiary objection to the Declaration of Sally Dengler as to the value of the property is sustained for the reasons stated in the objection.

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Thursday, January 6, 2022**

**Hearing Room**

**5A**

10:00 AM

**CONT... Russell Benjamin Wallace**

**Chapter 7**

<b>Party Information</b>
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**Debtor(s):**

Russell Benjamin Wallace

Pro Se

**Movant(s):**

Wilmington Savings Funds Society,

Represented By  
Dane W Exnowski

**Trustee(s):**

Jeffrey I Golden (TR)

Represented By  
Jeffrey S Shinbrot



**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Thursday, January 6, 2022**

**Hearing Room**

**5A**

10:30 AM

**8:16-11882 Stephen J Haythorne**

**Chapter 7**

Adv#: 8:16-01247      Damon v. Haythorne

**#7.00**      CON'TD Examination of Judgment Debtor Stephen J. Haythorne RE:  
Enforcement of Judgment [In Person - 1/6/22]

FR: 7-16-19; 8-15-19; 10-17-19; 11-21-19; 1-30-20; 4-2-20; 6-11-20; 9-10-20;  
11-19-20; 1-14-21; 3-11-21; 5-11-21; 7-1-21; 9-2-21; 11-4-21

Docket      128

**Courtroom Deputy:**

- NONE LISTED -

**Tentative Ruling:**

**July 16, 2019**

Stephen Haythorne to appear in court to be sworn in by the court clerk; the  
examination will take place outside the courtroom.

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**August 8, 2019**

Stephen Haythorne to appear in court to be sworn in by the court clerk; the  
examination will take place outside the courtroom.

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**August 15, 2019**

Stephen Haythorne to appear in court to be sworn in by the court clerk; the  
examination will take place outside the courtroom.

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**October 17, 2019**

Judgment creditor has not sought the issuance of an OSC re contempt.

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Thursday, January 6, 2022**

**Hearing Room**

**5A**

10:30 AM

**CONT... Stephen J Haythorne**

**Chapter 7**

Continue hearing to November 21, 2019 at 10:30 a.m. Any motion for OSC re contempt may be heard on the same date.

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**November 21, 2019**

Judgment creditor to advise the court re the status of this matter. The court notes that judgment creditor has not sought the issuance of an OSC re contempt.

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**January 30, 2020**

Judgment creditor to advise the court re the status of this matter, e.g., production of documents. Stephen Haythorne to appear in court to be sworn in by the court clerk; the examination will take place outside the courtroom.

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**June 11, 2020**

Continue the examination to September 10, 2020 at 10:00 a.m.

Basis for Tentative Ruling

The courthouse remains closed to in-person court appearances and on-site in-person judgment debtor examinations. Judgment creditor is free to schedule an examination outside the courthouse, including by video conference, prior to September 10, 2020. Depending on the status of pandemic-related rules and policies in place on September 1, 2020, the September 10, 2020 hearing may be further continued.

***Note: If the Judgment Creditor accepts the foregoing tentative ruling, appearance at this hearing is not required and Judgment Creditor shall serve notice of the continued hearing date/time. Non-appearance at the hearing will be deemed acceptance of the tentative ruling.***

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**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Thursday, January 6, 2022**

**Hearing Room**

**5A**

10:30 AM

**CONT... Stephen J Haythorne  
September 10, 2020**

**Chapter 7**

Continue the examination to November 19, 2020 at 10:00 a.m. (XX)

**Basis for Tentative Ruling**

The courthouse is currently closed to in-person court appearances and on-site in-person judgment debtor examinations. Judgment creditor is free to schedule an examination outside the courthouse, including by video conference, prior to November 19, 2020. Depending on the status of pandemic-related rules and policies in place on November 19, 2020, the examination may be further continued.

***Note: If the Judgment Creditor accepts the foregoing tentative ruling, appearance at this hearing is not required and Judgment Creditor shall serve notice of the continued hearing date/time. Non-appearance at the hearing will be deemed acceptance of the tentative ruling.***

-----

**January 6, 2022**

Continue the examination to February 10, 2022 at 10:30 a.m., the same date/time set for hearing on the Order to Show Cause re Contempt.

***Note: If all parties accept the tentative ruling, appearances at this hearing are not required.***

<b>Party Information</b>
--------------------------

**Debtor(s):**

Stephen J Haythorne

Represented By

David S Henshaw

**Defendant(s):**

Stephen J Haythorne

Pro Se

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Thursday, January 6, 2022**

**Hearing Room**

**5A**

10:30 AM

**CONT... Stephen J Haythorne**

**Chapter 7**

**Plaintiff(s):**

Hugh C Damon

Represented By  
Robert P Goe  
Charity J Manee

**Trustee(s):**

Weneta M Kosmala (TR)

Pro Se

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Thursday, January 6, 2022**

**Hearing Room**

**5A**

10:30 AM

**8:16-11882 Stephen J Haythorne**

**Chapter 7**

Adv#: 8:16-01247      Damon v. Haythorne

**#8.00**      CON'TD Examination of Judgment Debtor/Third Person Kelli R. Haythorne RE:  
Enforcement of Judgment [In Person - 1/6/22]

FR: 7-16-19; 8-15-19; 10-17-19; 11-21-19; 1-30-20; 4-2-20; 6-11-20; 9-10-20;  
11-19-20; 1-14-21; 3-11-21; 5-11-21; 7-1-21; 9-2-21; 11-4-21

Docket      130

**Courtroom Deputy:**

- NONE LISTED -

**Tentative Ruling:**

**July 16, 2019**

Kelli Haythorne to appear in court to be sworn in by the court clerk; the  
examination will take place outside the courtroom.

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**August 8, 2019**

Kelli Haythorne to appear in court to be sworn in by the court clerk; the  
examination will take place outside the courtroom.

-----

**August 15, 2019**

Kelli Haythorne to appear in court to be sworn in by the court clerk; the  
examination will take place outside the courtroom.

-----

**October 17, 2019**

Judgment creditor has not sought the issuance of an OSC re contempt.

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Thursday, January 6, 2022**

**Hearing Room**

**5A**

10:30 AM

**CONT... Stephen J Haythorne**

**Chapter 7**

Continue hearing to November 21, 2019 at 10:30 a.m. Any motion for OSC re contempt may be heard on the same date.

-----

**November 21, 2019**

Judgment creditor to advise the court re the status of this matter. The court notes that judgment creditor has not sought the issuance of an OSC re contempt.

-----

**January 30, 2020**

Judgment creditor to advise the court re the status of this matter, e.g., production of documents. Kelli Haythorne to appear in court to be sworn in by the court clerk; the examination will take place outside the courtroom (no doctor's note was filed by January 16, 2020 excusing her appearance).

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**June 4, 2020**

Continue the examination to September 10, 2020 at 10:00 a.m.

Basis for Tentative Ruling

The courthouse remains closed to in-person court appearances and on-site in-person judgment debtor examinations. Judgment creditor is free to schedule an examination outside the courthouse, including by video conference, prior to September 10, 2020. Depending on the status of pandemic-related rules and policies in place on September 1, 2020, the September 10, 2020 hearing may be further continued.

***Note: If the Judgment Creditor accepts the foregoing tentative ruling, appearance at this hearing is not required and Judgment Creditor shall serve notice of the continued hearing date/time. Non-appearance at the hearing will be deemed acceptance of the tentative ruling.***

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**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Thursday, January 6, 2022**

**Hearing Room**

**5A**

10:30 AM

**CONT... Stephen J Haythorne**

**Chapter 7**

**September 10, 2020**

Continue the examination to November 19, 2020 at 10:00 a.m. (XX)

Basis for Tentative Ruling

The courthouse is currently closed to in-person court appearances and on-site in-person judgment debtor examinations. Judgment creditor is free to schedule an examination outside the courthouse, including by video conference, prior to November 19, 2020. Depending on the status of pandemic-related rules and policies in place on November 19, 2020, the examination may be further continued.

***Note: If the Judgment Creditor accepts the foregoing tentative ruling, appearance at this hearing is not required and Judgment Creditor shall serve notice of the continued hearing date/time. Non-appearance at the hearing will be deemed acceptance of the tentative ruling.***

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**January 6, 2022**

Continue the examination to February 10, 2022 at 10:30 a.m., the same date/time set for hearing on the Order to Show Cause re Contempt.

***Note: If all parties accept the tentative ruling, appearances at this hearing are not required.***

<b>Party Information</b>
--------------------------

**Debtor(s):**

Stephen J Haythorne

Represented By

David S Henshaw

**Defendant(s):**

Stephen J Haythorne

Pro Se

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Thursday, January 6, 2022**

**Hearing Room**

**5A**

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10:30 AM

**CONT... Stephen J Haythorne**

**Chapter 7**

**Plaintiff(s):**

Hugh C Damon

Represented By  
Robert P Goe  
Charity J Manee

**Trustee(s):**

Weneta M Kosmala (TR)

Pro Se



**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Thursday, January 6, 2022**

**Hearing Room**

**5A**

10:30 AM

**8:18-11899 Dennis Ulrich**

**Chapter 7**

**#9.00 Hearing RE: Trustee's Final Report and Application for Final Fees and Expenses**

**[JEFFREY I. GOLDEN, CHAPTER 7 TRUSTEE]**

Docket 76

**Courtroom Deputy:**

- NONE LISTED -

**Tentative Ruling:**

**January 6, 2022**

Approve fees and expenses as requested.

***Note: This matter appears to be uncontested. Accordingly, no court appearance by Applicant is required. Should an opposition party file a late opposition or appear at the hearing, the court will determine whether further hearing is required and Applicant will be so notified.***

<b>Party Information</b>
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**Debtor(s):**

Dennis Ulrich

Represented By  
William P White

**Trustee(s):**

Jeffrey I Golden (TR)

Represented By  
Reem J Bello

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Thursday, January 6, 2022**

**Hearing Room**

**5A**

10:30 AM

**8:18-11899    Dennis Ulrich**

**Chapter 7**

**#10.00    Hearing RE: First and Final Application for Allowance and Payment of Fees and Reimbursement of Expenses**

**[WEILAND GOLDEN GOODRICH LLP, COUNSEL FOR THE TRUSTEE]**

Docket        73

**Courtroom Deputy:**

- NONE LISTED -

**Tentative Ruling:**

**January 6, 2022**

Approve fees and expenses as requested.

***Note: This matter appears to be uncontested. Accordingly, no court appearance by Applicant is required. Should an opposition party file a late opposition or appear at the hearing, the court will determine whether further hearing is required and Applicant will be so notified.***

<b>Party Information</b>
--------------------------

**Debtor(s):**

Dennis Ulrich

Represented By  
William P White

**Trustee(s):**

Jeffrey I Golden (TR)

Represented By  
Reem J Bello

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Thursday, January 6, 2022**

**Hearing Room**

**5A**

10:30 AM

**8:18-11899    Dennis Ulrich**

**Chapter 7**

**#11.00    Hearing RE: First and Final Fee Application for Allowance of Fees and Expenses From August 24, 2021 through September 13, 2021**

**[HAHN FIFE & COMPANY, ACCOUNTANT FOR TRUSTEE]**

Docket        74

**Courtroom Deputy:**

- NONE LISTED -

**Tentative Ruling:**

**January 6, 2022**

Approve fees and expenses as requested.

***Note: This matter appears to be uncontested. Accordingly, no court appearance by Applicant is required. Should an opposition party file a late opposition or appear at the hearing, the court will determine whether further hearing is required and Applicant will be so notified.***

<b>Party Information</b>
--------------------------

**Debtor(s):**

Dennis Ulrich

Represented By  
William P White

**Trustee(s):**

Jeffrey I Golden (TR)

Represented By  
Reem J Bello

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Thursday, January 6, 2022**

**Hearing Room**

**5A**

10:30 AM

**8:18-14388 Francis J Marzec**

**Chapter 7**

Adv#: 8:19-01180 Marshack v. Sweeney et al

**#12.00** Hearing RE: Plaintiff's Motion to Dismiss Adversary Proceeding Pursuant to Approved Compromise

Docket 44

**Courtroom Deputy:**

- NONE LISTED -

**Tentative Ruling:**

**January 6, 2022**

Grant the Motion.

***Note: This matter appears to be uncontested. Accordingly, no court appearance by the Movant is required. Should an opposing party file a late opposition or appear at the hearing, the court will determine whether further hearing is required and Movant will be so notified.***

<b>Party Information</b>
--------------------------

**Debtor(s):**

Francis J Marzec

Represented By  
Christine A Kingston

**Defendant(s):**

Anita Sweeney

Pro Se

Tori Sweeney

Pro Se

Michael Marzec

Pro Se

Beth Marzec

Pro Se

**Plaintiff(s):**

Richard A Marshack

Represented By

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Thursday, January 6, 2022**

**Hearing Room**

**5A**

10:30 AM

**CONT...**

**Francis J Marzec**

Anerio V Altman

**Chapter 7**

**Trustee(s):**

Richard A Marshack (TR)

Represented By

Anerio V Altman

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Thursday, January 6, 2022**

**Hearing Room**

**5A**

10:30 AM

**8:19-10732 Gabriel John Torres and Julie Marie Torres**

**Chapter 7**

**#13.00** Hearing RE: Chapter 7 Trustee's Final Report and Application for Final Fees and Expenses

**[WENETA M.A. KOSMALA, CHAPTER 7 TRUSTEE]**

Docket 56

**Courtroom Deputy:**

- NONE LISTED -

**Tentative Ruling:**

**January 6, 2022**

Approve fees and expenses as requested.

***Note: This matter appears to be uncontested. Accordingly, no court appearance by Applicant is required. Should an opposition party file a late opposition or appear at the hearing, the court will determine whether further hearing is required and Applicant will be so notified.***

<b>Party Information</b>
--------------------------

**Debtor(s):**

Gabriel John Torres

Represented By  
Anthony B Vigil

**Joint Debtor(s):**

Julie Marie Torres

Represented By  
Anthony B Vigil

**Trustee(s):**

Weneta M.A. Kosmala (TR)

Represented By  
Weneta Kosmala  
Erin P Moriarty

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Thursday, January 6, 2022**

**Hearing Room**

**5A**

10:30 AM

**CONT...**

**Gabriel John Torres and Julie Marie Torres**

**Chapter 7**

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Thursday, January 6, 2022**

**Hearing Room**

**5A**

10:30 AM

**8:19-10732 Gabriel John Torres and Julie Marie Torres**

**Chapter 7**

**#14.00 Hearing RE: Application for Payment of Final Fees and/or Expenses**

**[LAW OFFICES OF WENETA M.A. KOSMALA, ATTORNEY FOR WENETA  
M.A. KOSMALA, CHAPTER 7 TRUSTEE]**

Docket 41

**Courtroom Deputy:**

- NONE LISTED -

**Tentative Ruling:**

**January 6, 2022**

Approve fees and expenses as requested.

***Note: This matter appears to be uncontested. Accordingly, no court appearance by Applicant is required. Should an opposition party file a late opposition or appear at the hearing, the court will determine whether further hearing is required and Applicant will be so notified.***

<b>Party Information</b>
--------------------------

**Debtor(s):**

Gabriel John Torres

Represented By  
Anthony B Vigil

**Joint Debtor(s):**

Julie Marie Torres

Represented By  
Anthony B Vigil

**Trustee(s):**

Weneta M.A. Kosmala (TR)

Represented By  
Weneta Kosmala  
Erin P Moriarty



**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Thursday, January 6, 2022**

**Hearing Room**

**5A**

10:30 AM

**CONT...**

**Gabriel John Torres and Julie Marie Torres**

**Chapter 7**

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Thursday, January 6, 2022**

**Hearing Room**

**5A**

10:30 AM

**8:19-10732 Gabriel John Torres and Julie Marie Torres**

**Chapter 7**

**#15.00** Hearing RE: First and Final Fee Application for Allowance of Fees and Expenses From September 30, 2019 through September 13, 2021, filed by Accountant

**[HAHN FIFE & COMPANY, ACCOUNTANT FOR CHAPTER 7 TRUSTEE]**

Docket 54

**Courtroom Deputy:**

- NONE LISTED -

**Tentative Ruling:**

**January 6, 2022**

Approve fees and expenses as requested.

***Note: This matter appears to be uncontested. Accordingly, no court appearance by Applicant is required. Should an opposition party file a late opposition or appear at the hearing, the court will determine whether further hearing is required and Applicant will be so notified.***

<b>Party Information</b>
--------------------------

**Debtor(s):**

Gabriel John Torres

Represented By  
Anthony B Vigil

**Joint Debtor(s):**

Julie Marie Torres

Represented By  
Anthony B Vigil

**Trustee(s):**

Weneta M.A. Kosmala (TR)

Represented By  
Weneta Kosmala

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Thursday, January 6, 2022**

**Hearing Room**

**5A**

10:30 AM

**CONT...**

**Gabriel John Torres and Julie Marie Torres**

Erin P Moriarty

**Chapter 7**

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Thursday, January 6, 2022**

**Hearing Room      5A**

10:30 AM

**8:21-10525    The Source Hotel, LLC**

**Chapter 11**

**#16.00    CON'TD STATUS CONFERENCE Hearing on Status of Chapter 11 Case; and  
(2) Requiring Report on Status of Chapter 11 Case**

FR: 5-6-21; 8-12-21; 9-30-21; 10-1-21; 11-4-21; 12-16-21

Docket      1

**Courtroom Deputy:**

- NONE LISTED -

**Tentative Ruling:**

**May 6, 2021**

Claims Bar Date:                      7/12/21 -- notice to creditors by 5/12/21

Continued Status Conference:      8/12/21 at 10:30 a.m. (XX)

Updated Status Report due:        7/29/21

***Note: If Debtor is in substantial compliance with the requirements of the  
US Trustee, appearance at this hearing is not required.***

-----  
**August 12, 2021**

Continue this Status Conference to September 30, 2021 at 2:00 p.m. The  
deadline for filing a plan and disclosure statement will be set at that hearing.  
An updated Status Report must be filed by September 23, 2021. (XX)

-----  
**November 4, 2021**

Continue status conference to December 16, 2021 at 10:30 a.m.; updated  
status report must be filed by December 2, 2021 if a motion to dismiss has  
not been filed by such date. (XX)

***Note: Appearances at this hearing are not required.***

-----  
**December 16, 2021**

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Thursday, January 6, 2022**

**Hearing Room**

**5A**

10:30 AM

**CONT... The Source Hotel, LLC**

**Chapter 11**

Continue the Chapter 11 Status Conferene to January 6, 2022 at 10:30 a.m.; an updated Status Report is not required.

***Note: Appearances at this hearing are not required.***  
-----

**January 6, 2022**

Continue status conference to February 10, 2022 at 10:30 a.m.; Court to issue Order to Show Cause Why This Case Should Not be Dismissed, to be heard on the same day and same time as the continued status conference.

Basis for Tentative Ruling

In its December 2, 2021 Status Report, Debtor indicated that it would file a motion to dismiss the case by December 16, 2021 so that such motion could be heard on this hearing date. As of January 4, 2022, no such motion had been filed.

***Note: Appearances at this hearing are not required if all parties accept the tentative ruling.***

<b>Party Information</b>
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**Debtor(s):**

The Source Hotel, LLC

Represented By  
Ron Bender  
Juliet Y Oh

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Thursday, January 6, 2022**

**Hearing Room**

**5A**

10:30 AM

**8:21-11648 Joyful Care Caregiving Services, Inc.**

**Chapter 11**

Adv#: 8:21-01061 Estes v. Degamo et al

**#17.00** Hearing RE:Defendant Joyful Care Caregiving Services, Inc.'s Motion to Strike Section 523(a) Claims

Docket 18

**Courtroom Deputy:**

- NONE LISTED -

**Tentative Ruling:**

**January 6, 2022**

Deem the Motion to be one seeking to dismiss the 523(a) claims for relief pursuant to Fed.R.Civ.P. 12(b)(6) and grant the Motion with prejudice; Overrule Plaintiff's objections.

**Basis for Tentative Ruling:**

Joyful Care Caregiving Services, Inc. ("Debtor" or "Defendant") filed its voluntary chapter 11 petition on June 30, 2021. On August 2, 2021, Defendant filed a notice of removal of the action pending in Los Angeles Superior Court, case no. 21NWCV00190, entitled *Herminia Estes v. Roderick Degamo, et al.* (the "Complaint") [dkt. 1]. Thereafter, on August 27, 2021, Herminia Estes ("Plaintiff") amended the Complaint to include claims for non-dischargeability under §§ 523(a)(2)(A) and 523(a)(6) against Roderick Degamo, Jocelyn Degamo, Joyful Care Caregiving Services, Inc., A Joyful Home Care, Inc., All Care Partners, Inc., and Does 1-10 (the "FAC") [dkt. 8] .

Defendant initially moved to strike the 523(a) claims from the FAC pursuant Federal Rules of Civil Procedure ("FRCP") 12(f) on the ground that § 523(a) does not apply to corporate debtors ("Strike Motion") [dkt 15]. Though the court agreed that § 523(a) does not apply to corporate debtors, it nevertheless denied the Strike Motion based on its determination that FRCP 12(f) did not apply. See the court's December 9, 2021 Tentative Ruling re the

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Thursday, January 6, 2022**

**Hearing Room**

**5A**

10:30 AM

**CONT...**      **Joyful Care Caregiving Services, Inc.**  
Strike Motion set forth below.

**Chapter 11**

Defendant has now filed a a new motion to "strike" the 523(a) claims from the FAC [dkt. 18] pursuant to FRCP 12(b)(6) (the "Motion"). While Defendant has erroneously entitled the Motion as one to "strike" the 523(a) claims, it is apparent from the substance of the Motion that Defendant is, in fact, seeking to *dismiss* such claims. See, Mot., p.4, lines 1-4 [dkt.18]. This court can, and does, deem the Motion to be one to dismiss the 523(a) claims under FRCP 12(b)(6). See *Kelley v. Corr. Corp. of Am.*, 750 F. Supp. 2d 1132, 1146 (E.D. Cal. 2010); see also *Ray v. Cty. of Los Angeles*, 935 F.3d 703, 708 (9th Cir. 2019), *cert. denied sub nom. Los Angeles Cty., California v. Ray*, 140 S. Ct. 1124, 206 L. Ed. 2d 189 (2020).

FRCP 12(b)(6), made applicable to this adversary proceeding under FRBP 7012, provides that a party may move to dismiss a claim for relief for "failure to state a claim upon which relief can be granted[.]" In *Atlantic Corp. v. Twombly*, 550 U.S. 544, 561 (2007), the Supreme Court established more stringent notice-pleading standards for motions to dismiss under FRCP 12(b)(6). A plaintiff is required to provide more than "labels and conclusions, and a formulaic recitation of the elements of a cause of action ...." *Id.* at 555. The plaintiff must provide "enough facts to state a claim to relief that is plausible on its face" to nudge "their claims across the line from conceivable to plausible[.]" *Id.* at 570. "To survive a motion to dismiss, a complaint must contain sufficient factual matter, accepted as true, to state a claim for relief that is plausible on its face." *Ashcroft v. Iqbal*, 556 U.S. 662, 678 (2009). "Where a complaint pleads facts that are merely consistent with a defendant's liability, it stops short of the line between possibility and probability of entitlement to relief." *Id.* While legal conclusions can provide the framework of a complaint, "they must be supported by factual allegations." *Id.* at 679. "When there are well-pleaded factual allegations, a court should assume their veracity and then determine whether they plausibly give rise to an entitlement to relief." *Id.* (internal citations omitted). The court must construe the complaint in the light most favorable to the plaintiff, accept all well-pleaded factual allegations as true, and "all reasonable inferences drawn from them". *Johnson v. Riverside Healthcare Sys., LP.*, 534 F.3d 1116, 1122 (9th Cir. 2008).

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

Thursday, January 6, 2022

Hearing Room

5A

10:30 AM

CONT...

**Joyful Care Caregiving Services, Inc.**

**Chapter 11**

Here, Count One (paragraphs 55-62) and Count Two (paragraphs 76-102) from the Complaint (the "Claims") arise under §523(a). Section 523(a) provides that a "discharge under section 727, 1141, 1192 [1] 1228(a), 1228(b), or 1328(b) of this title does not discharge an *individual* debtor from any debt..." [emphasis added]. Section 523(a) clearly applies only to individual debtors and not to corporate debtors. See, *Towers for Pac.-Atlantic Trading Co. v. United States (In re Pac.-Atlantic Trading Co.)*, 64 F.3d 1292, 1302 (9th Cir. 1995); *Yamaha Motor Corp. v. Shadco, Inc.*, 762 F.2d 668, 670 (8th Cir. 1985) (section 523(a) is applicable to individual debtors and will not be extended to corporate or partnership debtors); *Savoy Records, Inc. v. Trafalgar Assocs. (In re Trafalgar Assocs.)*, 53 Bankr. 693, 696 (Bankr. S.D.N.Y. 1985); *In re MF Glob. Holdings Ltd.*, No. 11-15059 (MG), 2012 Bankr. LEXIS 897, at \*8 (Bankr. S.D.N.Y. Mar. 6, 2012) ("In the Second Circuit, it is well-settled that section 523 does not apply to corporate debtors.")

Defendant is a California corporation. The other individual defendants in the adversary proceeding are the president of the corporate Defendant and his wife, and to the court's knowledge they are not debtors in this or any other bankruptcy. As such, they are not entitled to any discharge of liability in this bankruptcy case and the court lacks authority to preemptively deny them a discharge in any future bankruptcy case either may file.

None of the cases cited by Plaintiff in her opposition address the issue of the applicability of Section 523(a) exceptions to discharge to a *corporate* debtor. Though no case citation is provided, Plaintiff relies principally on the case of *In re Carroll* from this district as dispositive. The court presumes Plaintiff is referring to *In re Carroll*, 549 B.R. 375 (Bankr.Cal.2016). That case, however, is inapposite on its face as the debtor there, Regan Carroll, was an *individual* and not a corporate entity. The complaint was directed to an individual who had filed a bankruptcy case.

To re-iterate, the debtor against whom 523(a) is being directed is a *corporate* entity. Further, the purpose of 523(a) is to except a particular debt from *discharge*. A non-debtor individual is not entitled to a bankruptcy discharge in the corporate debtor's bankruptcy case. Put more plainly, Debtor's individual insider and his spouse would only qualify for a discharge subject to Section 523(a), if he or she filed their own individual bankruptcy



**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Thursday, January 6, 2022**

**Hearing Room**

**5A**

10:30 AM

**CONT... Joyful Care Caregiving Services, Inc.**

**Chapter 11**

case. Accordingly, no 523(a) exception claims may be asserted against any of the defendants, corporate or individual. Finally, whether an individual may be liable for a particular debt under the equitable theory of *alter ego* is entirely separate and independent from the non-dischargeability of a debt under 523(a).

**The Court's December 9, 2021 Tentative Ruling:**

Deny the Motion.

Basis for Tentative Ruling

While the court agrees with Debtor that Section 523(a) does not apply to corporate debtors as a matter of law, FRCP 12(f) is not the correct procedural vehicle for addressing the legal infirmity of Counts One and Four. This is made clear by the Ninth Circuit's decision in the very case cited by Debtor, i.e., Whittlestone, Inc. v. Handi-Craft Co. 618 F.3d 970 (9th Cir.2010). In Whittlestone, the defendant filed a Rule 12(f) motion to strike from the complaint claims for certain damages that were precluded as a matter of law (due to such damages being barred by the terms of the contract between the parties). The trial court granted the motion to strike. On appeal, the Circuit reversed on the following grounds:

1. Though filed as a motion to strike under Rule 12(f), the actual relief sought "was really an attempt to have certain portions of [the complaint] dismissed or to obtain summary judgment . . . as to those portions of the suit -- actions better suited for a Rule 12(b)(6) motion or a Rule 56 motion, not a Rule 12(f) motion." 618 F.3d at 974.
2. None of the five circumstances listed in Rule 12 (f) for claims that are an insufficient defense, redundant, immaterial, impertinent or scandalous applies to claim that is precluded as a matter of law. Id.
3. Allowing the use of Rule 12(f) to dismiss some or all of a pleading "would be creating redundancies within the Federal Rules of Civil Procedure because a Rule 12(b)(6) motion (or a motion for summary judgment at a later stage in the proceedings) already serves such a purpose." Id.

Bottom line: The Ninth Circuit, whose decisions bind this court, has held that Rule 12(f) does not authorize this court to strike a claim on the basis that it is precluded as a matter of law. 918 F.3d at 975.

<b>Party Information</b>
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**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Thursday, January 6, 2022**

**Hearing Room**

**5A**

10:30 AM

**CONT... Joyful Care Caregiving Services, Inc.**

**Chapter 11**

**Debtor(s):**

Joyful Care Caregiving Services,

Represented By  
Joon M Khang

**Defendant(s):**

Roderick Degamo

Pro Se

Jocelyn Degamo

Pro Se

Joyful Care Caregiving Services,

Represented By  
Joon M Khang

A Joyful Home Care, Inc

Pro Se

All Care Partners, Inc

Pro Se

**Plaintiff(s):**

Hermina Estes

Represented By  
Mariano A Alvarez

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Thursday, January 6, 2022**

**Hearing Room      5A**

10:30 AM

**8:21-12491    Raphael Hernandez**

**Chapter 13**

**#18.00    Hearing RE: Chapter 13 Trustee's Objection to Claims of Exemption**

Docket      33

**\*\*\* VACATED \*\*\*    REASON: OFF CALENDAR: Chapter 13 Trustee's  
Notice of Voluntary Dismissal of Motion, filed 12/13/2021**

**Courtroom Deputy:**

**OFF CALENDAR: Chapter 13 Trustee's Notice of Voluntary Dismissal of  
Motion, filed 12/13/2021 - td (12/13/2021)**

**Tentative Ruling:**

- NONE LISTED -

<b>Party Information</b>
--------------------------

**Debtor(s):**

Raphael Hernandez

Represented By  
Joshua L Sternberg

**Trustee(s):**

Amrane (SA) Cohen (TR)

Pro Se

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Thursday, January 6, 2022**

**Hearing Room**

**5A**

10:30 AM

**8:21-12607 Thuan B Truong**

**Chapter 11**

**#19.00** STATUS CONFERENCE Hearing RE: (1) Status of Chapter 11 Case; and (2) Requiring Report on Status of Chapter 11 Case

Docket 1

**\*\*\* VACATED \*\*\* REASON: OFF CALENDAR: Order of Dismissal for  
Failure to File Initial Petition Documents Entered 11/9/2021**

**Courtroom Deputy:**

**OFF CALENDAR: Order of Dismissal for Failure to File Initial Petition  
Documents Entered 11/9/2021 - td (12/28/2021)**

**Tentative Ruling:**

- NONE LISTED -

<b>Party Information</b>
--------------------------

**Debtor(s):**

Thuan B Truong

Pro Se